

AFFIDAVIT

Before me, the undersigned notary, personally appeared John David Freshwater, who having first been duly sworn, deposes and says:

1. Affiant has personal knowledge of all matters set forth in this affidavit;
2. Affiant was interviewed by two investigators hired by the Mount Vernon City School District. According to the contract between the Mount Vernon City School District and the Mount Vernon Education Association affiant understands that Article 4, *Teaching Conditions*, Section 402, *Investigation of Complaints*, states, *The person against whom the complaint is made will be given the opportunity to provide a comprehensive written response to the complaint if he/she chooses to do so*. Even though I have never been a member of any union or the Mount Vernon Education Association, for the first time in my life I understand I am protected by the union contract.
3. I was asked so many questions by the investigators that I'm glad I can go back and provide more information. When I was asked questions by the investigators I answered the best I could. I recorded my conversation with the interviewers because my attorney told me many times words can get misinterpreted or written wrong. So I taped the interview with a recorder. I've listened to the tape many times after the interview – at least ten times. I do not like the sound of my voice and all the um's and ah's I use when I speak. Each time I listened to the interview recording I thought of more stuff I wanted to add. So I am glad I can write a statement to help explain stuff in case you investigators do not ask me certain questions when we meet again next week on Wednesday on May 28, 2008. Because it is just my nature or habit to answer questions by repeating the question, it is my understanding I am to write and speak as if I were writing a letter or giving a speech to the world to explain things. It is my understanding I am trying to speak and write so that people could not misunderstand what I am saying. I know when I speak I am thinking of a million things and sometimes what I say can be confusing so it is my understanding to think, write and speak with a goal of communicating as clearly as I can.
4. I've been using the Tesla Coil since I started teaching at the middle school. I never saw a Tesla Coil before Jeff George showed me it. When Jeff was here our classrooms were right beside each other. Well we had a lab room in between our classrooms but we walked through the lab and could be in each other's classes. Early during the school year my first year Jeff was using the Tesla Coil in his class. I walked in when he was using it and watched what he did. He was showing his students how he charged up gas tubes, charged light bulbs, discussed grounding, showed how to determine if something is a good conductor and talked about how lightning takes the path of least resistance and that's why lightning looks jagged and then he used the Tesla Coil on himself. I never saw that

before. He was shocking himself with the Tesla Coil. Obviously he was not getting hurt or he wouldn't do it. Then he let the students touch it. The students in the class were already excited but they went wild when they got a chance to touch it. He did this thing where he held the Tesla Coil and touched the end of his finger close to the end of a student's finger and then the next student got in a line and put their finger up to the student in front of them. It was like on E.T the movie when they extend fingers and touch and E.T.'s finger lights up. He was showing how air was an insulator between two fingers because the body is like 60% water. Then Jeff let students touch the Tesla Coil by him putting the arc on their arms or shoulders. It was way cool. The kids loved it. Jeff - after class showed me how to use the Tesla Coil. I loved it. I thought it was great and the students reactions were great. I used the Tesla Coil the next day in class exactly how Jeff used it.

5. When I got the Tesla Coil from Jeff it was just wrapped up like a hair dryer or my wife's curling iron. It was just in the lab or I got it from some other teacher who last used it. I never saw a box or any instructions with the Tesla Coil. I mean with everything in the science lab – I don't think I have ever seen any instructions for anything we use. There's no instructions for the Vandergraph, not for the bunson burners, no instructions for the Wimhurst. Oh, I remember when Jeff George used the Wimhurst machine which is like the Tesla Coil and he cranked it up and knocked students down. There's no instructions for the overhead or how to change an overhead bulb. There's no instructions with the tuning forks. But we use all these things because just one teacher passes down information to the next teacher. I mean we're colleagues. We talk and teach each other. I never saw this stuff in college. So am I only supposed to teach those things I learned from my degree? Why do teachers spend time student-teaching during college – because you learn from other experienced teachers that way. I learned from Jeff George and he taught me well – he taught other teachers too not just me. If I thought he had done something wrong I wouldn't have followed him. Jeff was fine and a good teacher.
6. You asked if a student has ever held the Tesla Coil and used it on me. No a student has never held the Tesla Coil and arced it onto me. No a student has not made any mark on me with a Tesla Coil.
7. How did I do the experiments with the Tesla Coil? Just like Jeff did. I plugged it in by the overhead. There was a knob control for the power. I turned the power to lowest setting and touched the vacuum tubes. It is simple to use. You could actually hear the buzzing of the Tesla Coil if the power were on high so I always made sure it was in the lowest setting. Remember, now I am holding the Tesla Coil the whole time it is on. I never tried it on myself when it was on high power and I knew if it was on high power because it would buzz. I used it on myself and then let the students participate. Now when I did the E.T. thing – touching my finger to the student's finger and then the next student gets in a line to see how far the electricity is conducted there really is not any touching of one finger to the other finger. I mean you don't have to actually touch. In fact you don't want to touch finger to finger because then you wouldn't feel the jump. The first person and me don't touch fingers until after we conduct the electrical arc. After the arc jumps then me and that student touch hands or fingers and the next student

then moves their hand slowly to the person touching my hand. After those two students conduct the arc they are charged – they touch hands and the next student is added. Eventually the current is so low that there is no more arcing from one student to the next. And the purpose of the demonstration is to show resistance to electricity and conduction and the flow of atoms and electrons which is the standard I was teaching.

Now on the demonstration where just one student is involved they come up and hold their arm out – I never did touch the shoulder like Jeff George - I just didn't – No reason – I just didn't. Now when the student came up they held their arm out and I moved the Tesla Coil toward their arm. No you don't move fast with it you move slow so you can see the arc. The arcing is what you're trying to teach you know about insulators and conductors. When the Tesla Coil gets close enough the current arcs to them using the path of least resistance and then they feel the arc. You gotta watch and not touch the student when you're holding the Tesla Coil because when you're charged by holding the Tesla Coil the current can jump from you to the student through your hand and then they can't see the arc from the Tesla Coil's tip. Now sometimes the same kid would have me touch them the first time with the Tesla Coil and they would jump or move their arm away. Then they would say try it again. When I did it again they would keep their arm there longer then pull it away. Then they would say try it again and hold their arm there longer. Now some kids would hold their arm there for a few seconds and not even flinch. If they held their arm there then I would make a line anywhere from like their elbow to their wrist - not all the way from the elbow to the wrist but in that direction. Then if they kept their arm there I would go the other direction like side to side. No you can't see any marks so you don't know exactly where the arc from the Tesla Coil is touching their skin or was touching their skin so your just freehanding the Tesla Coil.

You asked why do I make an x and not just one mark. The answer is I usually do only just a touch – a singular touch because the student – nearly all of them pull their arm away from the arc right after first touch. I estimate the first touch is for 1 to 2 seconds and that student will be done. Usually in most all students I just arc the Tesla Coil and it stays in one spot because after the arc the student moves their arm by dropping it down. I hold the Tesla Coil in my right hand and the kid moves their arm toward the Tesla Coil. The kid moves their arm toward the Tesla Coil and if they leave it there and don't drop it or pull away – which they can because I am just standing there – then I move the Tesla Coil and make a motion going in the direction of the long part of their arm. If the kid keeps their arm there then I move in the other direction across the short or narrow part of the arm.

No, they are not yelling or screaming or crying. They just move their arm away because the sensation is not what they are used to. Look if I had a Tesla Coil here right now I could probably hold it right now like I do with the E.T. experiment and hold it for like 3 to 5 minutes on my arm.

You asked me if there was any red mark on my arm but you did not ask me how or from which experiment the red mark is made. First of all – let me make it very clear - I have never seen any mark or anything on a student from the Tesla Coil. Never once has a

student been harmed by the Tesla Coil. Look I do this to myself sometimes 20 times a day on the same arm in the same area and I have only seen a little red mark. When I do the E.T. experiment I am holding the Tesla Coil one of two ways. One way I hold the Tesla Coil would be by the handle and the tip goes back and touches my right forearm – I am right-handed so I hold the Tesla Coil in my right hand. The other way I hold the Tesla Coil during the E.T. experiment is to hold the tip of the Tesla Coil between my fingers and thumb in my right hand. Now when I hold it between my right thumb and fingers I have never seen any mark in 20+ years. When I hold the Tesla Coil in my right hand and tilt my wrist to touch my right forearm sometimes – sometimes – not every time or all the time – I could get a round mark on my right forearm. Now when I have had a red mark on my right forearm it was after touching the Tesla Coil to my forearm for 3-5 class periods a day and doing it as much as 20 times in a single day. When I do the E.T. experiment the Tesla Coil is touching my skin for anywhere from 1 to 4 or 5 minutes continuously. So I might sometimes get a red mark but only after doing the E.T. experiment so many times in a day and touching my forearm in the same place for anywhere from 1-5 minutes.

The red mark would just be a round circle because after awhile I just kept moving my right hand to the same place on my right arm. The red mark was like a spot no bigger than the size of a pea or a round pencil eraser. Any mark was actually smaller than a pea or pencil eraser. When I hold the Tesla Coil in my hand for the E.T. experiment I never had a single time where my skin had anything more than a small round circle. My skin was never blistered, swollen or broken. If I was getting hurt I wouldn't use it on myself and I certainly would not use it on a kid.

If I ever saw any mark on another person I would expect it would be in the shape of a round dot about the size of a pea or a pencil eraser because the student would move their arm away and not hold it there.

8. Yeah there were a bunch of us that used those Tesla Coils - Steve Farmer, Bill Oxenford, Jeff George of course, Dino Deottore, Lori Miller. Mr. Kuntz my former principal was in my classroom when I used it. There was no secret about the Tesla Coil it was used by any teacher who wanted to use it.
9. How did using the Tesla Coil apply to my standards was because I teach atoms and elements. In my green standards book and on my wall I keep the standards close at hand. In the book on page 210, number 5 electricity relates to one of my standards and on page 202, number 15, is another standard I relate to the Tesla Coil. I still relate the Tesla Coil to electric eels and how the potential/kinetic energy exists in them. The Tesla Coil ionizes gas tubes and we test the properties of different elements in vacuum tubes.
10. Understand when I use the Tesla Coil in my class the students have already seen it before. When I bring out the Tesla Coil it is not new to them. I know they have seen it in Deottore's class – we've talked about it. Kids get excited when they see it. Literally, students are up out of their seats to see it and use it. I have never had a class where most of the kids have not already seen it. They know what it looks like and what it does.

Every class and I mean every class there are volunteers who want to experience the Tesla Coil. After I demonstrate with the first few kids then I make sure everybody has a chance to try it if they want. Then I put it away. Usually the bell would ring before I put it away because for as long as I can remember I always used it at the end of a class to emphasize what I had just taught.

11. I would say I used the Tesla Coil in class once or twice a year in all or most of my classes since I have been here at the middle school. Realistically, anywhere from 500-600 students experienced the Tesla Coil demonstrations in my classes.
12. Absolutely never did I or would I touch a student with the Tesla Coil if they didn't want to. That's not how you get kids to like science by putting a scare in them. Anybody who touches the Tesla Coil volunteers to touch it. In fact, in each class before I let any student touch the arc from the Tesla Coil I use it on myself to show them it doesn't hurt. I use it on myself first to make sure the Tesla Coil power is on low because like I said if it is on high you can hear it buzz.
13. How did I use the Tesla Coil on December 6, 2007? First, my principal Mr. White gave me this letter dated January 22, 2008, which states if I don't use the Tesla Coil anymore then this matter is done and the school will not put anything in my personnel file. So really the matter is done but I used it that day the same way I always use it.

On that day – December 6, 2007, I started the class like I have for years. I talk about atoms, energy, electricity. I get the vacuum tubes out which have different elements. I charge each tube and show the class the color each element turns. Vacuum tubes are sealed and clear. No the tubes are not like the white fluorescent bulbs in the lights they are clear and if the names of the elements wasn't printed on the tubes you would not know which element was in each tube unless you know the colors. I lay the tubes out on the floor in front of the overhead. Each tube is about a foot long. I lay the tubes down next to each other longways. The tubes have to be touching each other because I put the Tesla Coil on the first tube and all the tubes light up. I do this 8 times because there are 8 tubes. I tell the students to write down the names of the elements and I keep track of the answers on the overhead. Now in this class one of my special ed kids couldn't see from where his seat was and he got up and moved toward the tubes on the floor. When he did and was going back to his seat he and I collided and he got arced on accident. He was fine and even did the E.T. experiment. After I did the gas tubes on the floor I let those who wanted to touch the arc of the Tesla Coil. Nothing different happened that what usually takes place. Those that wanted to participate did and those that didn't did not. I moved the Tesla Coil exactly like I always do. Then we moved on to the E.T. demo. I did the E.T. experiment exactly like I always do.

I didn't know until I met with Mr. White and Deb Strouse that Zach Dennis may be the student who claims to have been hurt. I didn't hurt Zach Dennis or anybody else. Zach came up on his own and I did the same demonstration with him I did with everybody else in that class and everyone in previous classes I have done over the past 21 years. He put his arm out in front of me so I could use the Tesla Coil and show the arc on his arm. The

Tesla Coil arced onto his arm and that was it. He took his arm away and that was it. I do remember he jumped in line for the E.T. conduction and in that class – only after thinking about it – in that class I remember doing the E.T. demonstration last because there were so many students who wanted to do it I got the first demonstration done and moved onto the next. Nobody ever cried or gave me any indication they were harmed or scared or anything. Really, it was just a normal class.

14. I don't even know why you would ask if there was any religious discussions about the Tesla Coil. I don't teach religion and never have in school.

On December 10, 2007, Mr. White met with me and showed me one picture. I was told the picture was of some student's arm who had been hurt by the Tesla Coil. I looked at the picture. I never saw anything like it. First of all the picture was hard to see. The picture was really fuzzy and you could not tell what it was showing.

I was told it was a kid's arm. Mr. White never said anything about a cross. Mr. White never said anything about the shape or color or what the picture was supposed to look like. Mr. White never said what he thought the picture showed other than that some student's parents said their kid had been hurt. Mr. White never said that the parents or the student claimed the mark had any shape. He just said some parents said their child was hurt in my science class when I used the Tesla Coil. I told Mr. White nobody has ever been hurt by the Tesla Coil. I explained what the Tesla Coil was and how long I had been using it. The meeting lasted about five minutes. Mr. White didn't say what day this injury supposedly happened but I knew it had to be the Thursday before because my lesson plan had it marked down for Thursday. I have absolutely never seen the Tesla Coil leave any mark like what was told or shown to me in that picture Mr. White had.

When I left the meeting it was my feeling that Mr. White was not concerned or surprised by anything I said to him. I told Mr. White that me and other teachers have been using the Tesla Coil for 20 plus years. Mr. White didn't seem the least bit mad or upset. At the very end of the meeting Mr. White asked me where was the Tesla Coil I used. I told him in my class. Mr. White said "destroy it" so I smashed it so it couldn't be used. I just did what Mr. White told me. He didn't say destroy all of Tesla Coils. He just said "destroy it" – "it" meaning the one I used. The one I used was still in my room and I had a brick in my class so I dropped the brick on the Tesla Coil and it broke into about a hundred pieces. The Tesla Coil is made of a plastic and metal. At first I put the pieces in the trash. Then I pulled the pieces out of the trash and put them in a bag and put it in my car to be able to show Mr. White in case he wanted to see it destroyed.

Mr. White told me not to use it anymore. I told the other teachers they could not use the Tesla Coil anymore. I never heard anything else about the Tesla Coil or this situation until January 22, 2008. Like 5 or 6 weeks later I get a letter from Mr. White put in mailbox that said don't use the Tesla Coil again to shock students. I haven't. His letter also said so long as no further incidences where anyone is shocked by the Tesla Coil then his letter would not become a permanent part of my personnel file. I have not used the

Tesla Coil since December 2007 or since Mr. White's letter. I definitely have not used a Tesla Coil to shock anybody since December or January 22, 2008. So it is my understanding this issue with the Tesla Coil has been resolved and cannot be an issue unless I were to shock anybody with the Tesla Coil.

Mr. White's letter says he copied Mr. Short on the letter. Wouldn't you think Mr. Short would read this letter and if he had a problem with it he would have called me and Mr. White and said something to us about it? I'm not even sure Mr. Short knows about the Tesla Coil. If he did, he's a smart man, Mr. Short would have asked if there was a need to see the doctor report on the student. If there was an allegation that I burned a cross like the press release said why didn't they put that in Mr. White's January 22, 2008, letter? Do you really think if the school was told back in December by the parents that a cross had been burned onto their kid's arm and that the kid couldn't sleep because of the pain that Mr. White would have written the January 22, 2008, letter and not even mentioned the word cross or the kid's pain?

You know how I got the January 22, 2008, letter from Mr. White – it was in my mailbox. We never had a meeting about the letter. We never discussed the letter. It was there in my mailbox and that was it. That was it. I did not hear anything else about the Tesla Coil until now – 6 months after it happened and they are trying to bring it up with all these other allegations. All this about the Tesla Coil and burning a cross as the press release states is absolutely false. If Mr. Short had known about such accusations he would have reported it. If Mr. White knew about such accusations he would have asked me about them in December and put it in his letter.

Mr. White's letter refers to electrostatic machine(s). I never called the Tesla Coil an electromagnetic machine when speaking to Mr. White so it's obvious to me he looked into or investigated what the Tesla Coil was. I also never told Mr. White there was more than one Tesla Coil so he had to look or find out there were more than one Tesla Coil. Mr. White also never told me to remove or lockup the Tesla Coil's from the room or the students. He specifically said (destroy it) and never asked if there was more than one Tesla Coil. Mr. White's bullet points he went over with me on April 22, 2008, - the day he dropped a bombshell on me about this investigation - right before Deb Strouse started monitoring my classroom – none of his bullet points say anything about the Tesla Coil so I wonder why we're talking about it now.

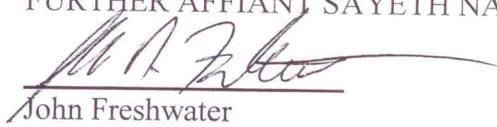
You know if it was so important or someone thought I hurt a student then why wait so long – now its May 2008. This happened six months ago. Why now is it being made a big deal? You know if someone thought it was a cross like they claim in Mr. Short's press release two things. 1. They never said anything like that to me when Mr. White showed me the picture. 2. If that is what they thought don't you think this kid and their family would have been jumping up and down screaming about it then? Come on – if you really think I put a cross – a religious symbol on some kid – it says in Mr. Short's press release that I burned crosses on to student's arms - don't you think we would have heard about this back in December instead of 5 months later? The press release says "students" like there was more than one. If this happened back in December 2007 then

why didn't we learn about it until April 2008. That's five months. Surely if there was more than one student parents would be coming out from all over the woodwork. I didn't hurt anybody. It just doesn't make sense. Really? If you think a teacher or school personnel hurt a student you have to call the police and children's services. Nobody from the police or children's services ever talked to me back then or since this came about. Don't they have to talk to me if I supposedly hurt a student?

And who takes a picture of their kid's arm if they think their kid has been hurt? Come on any parent who was really concerned about their kid being hurt would go to the doctor and let the doctor take a look at it. I never even heard of a doctor taking a picture of a patient's injury unless it was an x-ray. I remember asking Mr. White "what did the doctor say" after I looked at the picture and he just told me a student was hurt in school. Mr. White said he didn't know what the doctor said. I want to see the Doctor's report.

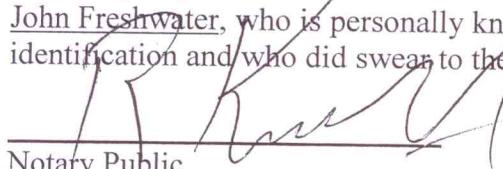
Last thing I want to say about this - I looked at the arm of every student that day after Mr. White met with me. I was trying to see if anybody's arm looked hurt. Now it was December. Kids are wearing longsleeves and shortsleeves. Some I could see their arms. Some I couldn't. I didn't see anybody – any student – who looked like their arm was hurt. I did not see anybody with any marks or spots on their arms. I tried to remember from the previous day who participated in the Tesla Coil experiments. I know these students did the Tesla Coil experiment - Zach Dennis, Ben Nielson, I think Riley Swanson, Corbin Heck and many others. I tried to look at their arms and watch their actions – nobody appeared hurt – None!

FURTHER AFFIANT SAYETH NAUGHT.



John Freshwater

The foregoing affidavit was sworn to and acknowledged before me this May 25, 2008, by John Freshwater, who is personally known by me or who provided satisfactory identification and who did swear to the truthfulness of the above.


R. Kelly Hamilton
Notary Public

R. KELLY HAMILTON, ATTORNEY AT LAW
Notary Public
In and for the State of Ohio
My Commission Has No Expiration Date
Section 147.03 R.C.